

CCRB INVESTIGATIVE RECOMMENDATION

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|--|---|-------------------------------|---|---|--|
| Investigator: Conor O'Shea | Team: Squad #6 | CCRB Case #: 201808743 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Sunday, 10/21/2018 4:25 PM | Location of Incident: Intersection of Gates Avenue and Marcus Garvey Boulevard | Precinct: 81 | 18 Mo. SOL 4/21/2020 | EO SOL 12/6/2020 | |
| Date/Time CV Reported Mon, 10/22/2018 1:18 PM | CV Reported At: CCRB | How CV Reported: In-person | Date/Time Received at CCRB Mon, 10/22/2018 1:18 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. POM Anthony Medina | 11553 | 955175 | 081 PCT |
| 2. POF Jeanene Martinez | 09256 | 963634 | 081 PCT |
| 3. POM Jimmy Romero | 05585 | 962062 | 081 PCT |
| 4. POM Dylan Mattern | 26213 | 964150 | 081 PCT |
| 5. POM Michael Swift | 26931 | 931288 | 081 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|-----------------------------|-----------|--------|----------|
| 1. SGT Gina Morningkelleher | 01882 | 942235 | 081 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|---|-----------------------------|
| A.POM Dylan Mattern | Abuse: Police Officer Dylan Mattern did not obtain medical treatment for an individual. | |
| B.POM Jimmy Romero | Abuse: Police Officer Jimmy Romero did not obtain medical treatment for an individual. | |
| C.POF Jeanene Martinez | Discourtesy: Police Officer Jeanene Martinez spoke discourteously to § 87(2)(b) | |
| D.POF Jeanene Martinez | Abuse: Police Officer Jeanene Martinez threatened § 87(2)(b) with the use of force. | |
| E.POF Jeanene Martinez | Abuse: Police Officer Jeanene Martinez threatened to arrest § 87(2)(b) | |
| F.POM Dylan Mattern | Discourtesy: Police Officer Dylan Mattern spoke discourteously to § 87(2)(b) | |
| G.POF Jeanene Martinez | Discourtesy: Police Officer Jeanene Martinez spoke discourteously to § 87(2)(b) | |
| H.POM Anthony Medina | Force: Police Officer Anthony Medina used physical force against § 87(2)(b) | |
| I.POF Jeanene Martinez | Force: Police Officer Jeanene Martinez struck § 87(2)(b) with a Taser. | |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|---|-----------------------------|
| J.POF Jeanene Martinez | Force: Police Officer Jeanene Martinez struck § 87(2)(b) with handcuffs. | |
| K.POF Jeanene Martinez | Force: Police Officer Jeanene Martinez attempted to discharge a Taser at § 87(2)(b) | |
| L.POM Dylan Mattern | Force: Police Officer Dylan Mattern used physical force against § 87(2)(b) | |
| M.POM Jimmy Romero | Force: Police Officer Jimmy Romero used physical force against § 87(2)(b) | |
| N.POM Jimmy Romero | Force: Police Officer Jimmy Romero restricted § 87(2)(b) breathing. | |
| O.POM Dylan Mattern | Force: Police Officer Dylan Mattern used a chokehold against § 87(2)(b) | |
| P.POM Dylan Mattern | Force: Police Officer Dylan Mattern restricted § 87(2)(b) breathing. | |
| Q.POM Jimmy Romero | Force: Police Officer Jimmy Romero used a chokehold against § 87(2)(b) | |
| R.POM Dylan Mattern | Force: Police Officer Dylan Mattern used physical force against § 87(2)(b) | |
| S.POM Anthony Medina | Discourtesy: Police Officer Anthony Medina spoke discourteously to § 87(2)(b) | |
| T.POF Jeanene Martinez | Force: Police Officer Jeanene Martinez restricted § 87(2)(b) breathing. | |
| U.POF Jeanene Martinez | Discourtesy: Police Officer Jeanene Martinez spoke discourteously to § 87(2)(b) | |
| V.POM Michael Swift | Discourtesy: Police Officer Michael Swift spoke discourteously to § 87(2)(b) | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|------------|-----------------------------|
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |

Case Summary

On October 22, 2018, § 87(2)(b) filed this complaint in person at the CCRB on behalf of himself and two individuals whom he did not know: § 87(2)(b) and an unidentified child.

On October 21, 2018, shortly before 4:25 p.m., a vehicle struck an unidentified child in an apparent hit-and-run at the intersection of Gates Avenue and Marcus Garvey Boulevard in Brooklyn. An unidentified male bystander ran up to Police Officer Dylan Mattern and Police Officer Jimmy Romero, both of the 81st Precinct, who were on a foot post at that intersection, and requested that they help the child. PO Mattern and PO Romero refused (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). Meanwhile, Police Officer Jeanene Martinez and Police Officer Anthony Medina, also of the 81st Precinct, drove by and assisted PO Mattern and PO Romero. A crowd formed, including § 87(2)(b) his brother, § 87(2)(b) and § 87(2)(b). PO Martinez allegedly told § 87(2)(b) to “Get the fuck out of here before we kill you, before you get locked up” (**Allegation C: Discourtesy**, § 87(2)(g)). **Allegation D: Abuse of Authority**, § 87(2)(g). **Allegation E: Abuse of Authority**, § 87(2)(g). PO Mattern allegedly told § 87(2)(b) to “Get the fuck out of here” (**Allegation F: Discourtesy**, § 87(2)(g)). PO Martinez allegedly said, “Fuck you” to § 87(2)(b) and ordered him to “Get the fuck out of here” (**Allegation G: Discourtesy**, § 87(2)(g)).

PO Medina grabbed § 87(2)(b) in a bear-hug and they fell to the ground (**Allegation H: Force**, § 87(2)(g)). PO Martinez struck § 87(2)(b) on his head with a Taser three times (**Allegation I: Force**, § 87(2)(g)). PO Martinez allegedly struck § 87(2)(b) on his head with handcuffs (**Allegation J: Force**, § 87(2)(g)). PO Martinez attempted to drive-stun § 87(2)(b) in the neck with a Taser (**Allegation K: Force**, § 87(2)(g)). PO Mattern and PO Romero took § 87(2)(b) to the ground (**Allegations L and M: Force**, § 87(2)(g)). PO Romero knelt on § 87(2)(b) chest, restricting his breathing (**Allegation N: Force**, § 87(2)(g)). At the same time, PO Mattern put his left forearm against § 87(2)(b) throat, allegedly further restricting his breathing (**Allegation O: Force**, § 87(2)(g)). **Allegation P: Force**, § 87(2)(g)). § 87(2)(b) stood up. PO Romero allegedly put § 87(2)(b) in a two-armed chokehold (**Allegation Q: Force**, § 87(2)(g)). PO Mattern took § 87(2)(b) to the ground (**Subsumed within Allegation L**). PO Mattern allegedly bit § 87(2)(b) on his back (**Allegation R: Force**, § 87(2)(g)). PO Medina ordered § 87(2)(b) to “Get the fuck back” (**Allegation S: Discourtesy**, § 87(2)(g)). PO Martinez allegedly restricted § 87(2)(b) breathing by kneeling on his back (**Allegation T: Force**, § 87(2)(g)). Police Officer Michael Swift and Sergeant Gina Morning-Kelleher, both of the 81st Precinct, responded as backup. PO Martinez and PO Medina drove § 87(2)(b) back to the 81st Precinct stationhouse. En route, PO Martinez allegedly repeatedly said, “Fuck you” to § 87(2)(b) (**Allegation U: Discourtesy**, § 87(2)(g)). Meanwhile, § 87(2)(b) allegedly approached PO Swift and asked what would happen to § 87(2)(b). PO Swift allegedly said § 87(2)(b) “Can’t do shit” about § 87(2)(b) arrest, and ordered him to “Get the fuck out of here. I run Bed-Stuy” (**Allegation V: Discourtesy**, § 87(2)(g)).

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) was arrested (**Board Review 01**) for: three counts of second-degree assault on a police officer; one count of resisting arrest; one count of second-degree obstructing governmental administration; one count of criminal mischief; and one count of disorderly conduct under the subsection for fighting or violent behavior. § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both recorded portions of the incident and its aftermath on their cell phones. § 87(2)(b) three videos and their summaries can be found at **Board Review 02** and **03**, **Board Review 04** and **05**, and **Board Review 06** and **07**, respectively. § 87(2)(b) two videos and their summaries can be found **Board Review 08** and **09**, **Board Review 10** and **11**, respectively. The investigation also obtained surveillance footage from video cameras positioned on a nearby apartment building, overlooking part of the incident. The four angles of surveillance video and each of their summaries can be found at **Board Review 12–15** and **Board Review 16–19**, respectively. There is no BWC footage in this case due to a BWC recall on the incident date. All references in this report to video evidence refer to the time-stamp in the video player.

On October 25, 2019, the CCRB referred PO Martinez and PO Mattern’s false-official-statement allegations to IAB under CCRB cases § 87(2)(b) respectively. The referrals for PO Martinez and PO Mattern’s false-official-statement allegations generated IAB Logs § 87(2)(b) respectively.

Findings and Recommendations

Allegation A—Abuse of Authority: Police Officer Dylan Mattern did not obtain medical treatment for an individual.

Allegation B—Abuse of Authority: Police Officer Jimmy Romero did not obtain medical treatment for an individual.

The following facts are undisputed. On October 21, 2018, at approximately 4:18 p.m., PO Romero and PO Mattern set up at their Skywatch foot post on the northeast corner of Gates Avenue and Marcus Garvey Boulevard in Brooklyn, on the border of the 81st and 79th Precincts and facing the intersection. At approximately 4:22 p.m., a vehicle struck an unidentified child, who was crossing the street at that same intersection with a bicycle, adjacent to and within eyesight of PO Romero and PO Mattern’s foot post. The driver fled the scene, unapprehended, in an apparent hit-and-run. The child victim stood up and finished crossing the street, remaining on the corner closest to PO Romero and PO Mattern for some period of time. An unidentified man wearing a black jacket over a red hooded sweatshirt approached PO Mattern and PO Romero at their foot post and told them what happened. The unidentified man asked PO Mattern and PO Romero to help the child but they refused. Instead, PO Mattern and PO Romero argued with him. PO Mattern and PO Romero briefly looked down nearby streets and determined that they did not see an obvious hit-and-run victim lying down; however, neither of them ever located, nor rendered aid to, the child victim. Neither PO Mattern nor PO Romero notified anyone, or generated any paperwork, about the hit-and-run. PO Mattern and PO Romero did not inquire about the hit-and-run from anyone else on scene, nor did they speak with other civilians standing on the nearby street corner about it.

The investigation was unable to identify the child victim, the man who reported the hit-and-run, or any additional civilian bystanders despite document requests and a field canvas.

Based on surveillance video footage and a Precinct map of the area (**Board Review 20**), the investigation determined that the hit-and-run occurred exactly as the child exited the 79th Precinct and entered the 81st Precinct, within eyesight of PO Mattern and PO Romero’s foot post.

Video footage from surveillance camera #9 at 650 Gates Avenue (**Board Review 14**) depicts the following. At the 07:33 mark, an individual, identified as the unidentified child, enters the crosswalk at the top left portion of the screen. A vehicle strikes the child in the crosswalk. At the 07:42 mark, an individual rushes up to the child victim of the hit-and-run in

the street and puts a hand on the child, right as § 87(2)(b) dressed in all blue and carrying a white bag over his shoulder, and the unidentified man who later reported the hit-and-run, dressed in a black jacket with a red hoodie underneath, arrive on scene. The individual who rushed up to the child victim escorts the child across the sidewalk, while another individual appears to pick up the child's bicycle in the crosswalk. At the 07:53 mark, the individual who rushed up to the child victim walks with the child victim onto the sidewalk at the corner of 650 Gates Avenue, while several other individuals also stand on the corner. Beginning at the 08:12 mark, some individuals on the corner walk around the sidewalk area near the corner; some wander off several paces before returning, while others remain more on the corner. At the 08:43 mark, the child's bicycle is visible on the corner, where it remains visible when the officers join the crowd on the sidewalk a minute later.

Video footage from surveillance camera #8 at 650 Gates Avenue (**Board Review 13**) provides the best angle to view the ensuing events. At the 08:46 mark, the unidentified man in the black jacket with a red hoodie underneath walks from the street corner—depicted in the top/middle portion of the screen—into the street and approaches PO Mattern and PO Romero's off-screen foot post while § 87(2)(b) remains on the corner. By the 09:05 mark, a marked police SUV—identified by the investigation as PO Martinez and PO Medina's patrol car—drives into the frame and stops in the middle of the street, near PO Mattern and PO Romero's off-screen foot post. By the 09:19 mark, § 87(2)(b) walks from the corner out into the street towards the officers and the unidentified man as traffic backs up behind PO Medina and PO Martinez's patrol car. At this time, several individuals remain on the sidewalk and corner of the intersection where the hit-and-run occurred. By the 09:29 mark, the officers, § 87(2)(b) and the unidentified man walk back to the street corner and form a crowd as they appear to engage with each other.

PO Mattern (**Board Review 21, 22**) acknowledged that he did not take any steps to determine where the child had been hit by the car, because the unidentified man described the crime he had just witnessed as if it had “already happened.” PO Mattern also did not notify anyone in the 79th Precinct about the reported crime, because the unidentified man did not provide “any real information to go off of,” such as the exact street on which it occurred. PO Mattern did not obtain medical treatment for the child, nor did he take any steps to do so.

PO Romero (**Board Review 23, 24**) testified that the only steps he took to identify the hit-and-run victim was to briefly look and walk around the nearby area, at which point he did not see an ambulance or anyone lying on the ground. During his second CCRB interview (**Board Review 24**), PO Romero was initially nonresponsive to questioning about whether he took any steps to obtain medical treatment for the child victim, but ultimately testified that the only steps he took were: exiting his van, looking around briefly, seeing that no one was lying down on the ground, and listening to the radio for any radio-runs in regards. PO Romero acknowledged that there was a crowd on the nearby street corner containing a “mix” of people of all ages, including “young people,” but did not engage with them.

NYPD police officers must “[r]ender all necessary police service in assigned area and as otherwise directed.” NYPD Patrol Guide Procedure 202-21 (**Board Review 25**). NYPD Patrol Guide Procedure 216-01 (**Board Review 26**) addresses “aided” cases, or situations in which a non-arrestee requires medical aid or assistance, and requires that members of service “render reasonable aid” to such a person and request an ambulance if needed. However, by its own terms, Patrol Guide Procedure 216-01 does not apply to “vehicle or bicycle collision” cases. Instead, Patrol Guide Procedure 217-01 (**Board Review 27**) applies: “Upon notification or observation of a vehicle collision,” uniformed members of service are required to “ascertain if there are any injuries and request ambulance if needed” and take additional steps if “serious physical injury is involved.” If a physical injury of any severity occurs, NYPD Patrol Guide Procedure 217-18 requires that

members of service take specific additional steps, regardless of whether the officer personally witnessed the collision (**Board Review 28**).

Although Patrol Guide Procedure 216-01's requirement to render reasonable aid does not explicitly apply to this incident—seeing as it involves a vehicle collision, which 216-01 exempts from its purview—the investigation determined that its spirit, especially in the requirement to “render reasonable aid” as an additional step to accompany “request an ambulance,” nevertheless remains. It would be incoherent for the Patrol Guide to require that officers render reasonable aid to non-arrestees for injuries sustained in non-vehicle collision cases, but to have no such obligation in vehicle collision cases, especially given the increased potential for serious physical injury or death in vehicle collisions. As such, the investigation determined that the spirit of the render-aid requirement from Patrol Guide Procedure 216-01 helps give meaning to the analogous requirements in Patrol Guide Procedure 217-01, which charges officers in PO Mattern and PO Romero's position, upon notification of a vehicle collision, to “ascertain if there are any injuries and request ambulance if needed.” Patrol Guide Procedure 217-18 also implores officers to take proactive actions upon notification of a vehicle collision, even if they did not personally witness it.

Given the explicit requirements of Patrol Guide Procedure 217-01, and in keeping with the spirit of Patrol Guide Procedure 216-01, the general duties of police officers in Patrol Guide Procedure 202-21, as well as the NYPD's commitment to protecting and valuing human life (see, e.g., Patrol Guide Procedure 200-02 [**Board Review 29**]), the investigation determined that PO Mattern and PO Romero had an affirmative obligation under the circumstances to at least attempt to render reasonable aid to the child victim of the hit-and-run. Although such an attempt may have proven unsuccessful in locating the child, and although it may ultimately have proven unnecessary to call an ambulance, as police officers PO Mattern and PO Romero were required to at least try to render reasonable aid under the circumstances.

Yet, by PO Mattern and PO Romero's own testimony, they failed to do so. PO Mattern acknowledged that he did not attempt to render aid to the child victim, and did not seek additional information in regards because the unidentified man reported the hit-and-run using the past tense. During PO Romero's second CCRB interview, after initially and repeatedly refusing to say whether he attempted to render aid to the child victim, PO Romero ultimately provided a list of “steps” that he took to do so, which included: exiting his vehicle, briefly looking around, not seeing anyone lying on the ground, and listening to the radio.

§ 87(2)(g)

§ 87(2)(g). Almost immediately after receiving an in-person report of a hit-and-run involving a child victim, PO Mattern and PO Romero concluded, without evidence, that the reported crime either did not occur, or, if it did occur, was either impossible to address or not worth addressing. They proceeded to argue with the person who reported the crime in the first place—all without ever attempting to locate the child, ascertain if the child had injuries, or rendering reasonable aid if necessary. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) For although PO Romero and PO Mattern did not observe anything on scene to provide additional information beyond what the hit-and-run reporter provided, their observations did not disprove the hit-and-run or the existence of a victim in need of aid, and they did not make a reasonable effort to obtain more information in regards, as required, either. § 87(2)(g)

§ 87(2)(g) Their observations did not disprove

the need to attempt to render aid, nor did the officers take reasonable steps to obtain more information, such as speaking to anyone in the crowd on the corner, which by PO Romero's own description included young people and, as the surveillance video shows, also included at least some people who were present during the hit-and-run.

§ 87(2)(g)

Allegation C—Discourtesy: Police Officer Jeanene Martinez spoke discourteously to § 87(2)(b)

Allegation F—Discourtesy: Police Officer Dylan Mattern spoke discourteously to § 87(2)(b)

Allegation G—Discourtesy: Police Officer Jeanene Martinez spoke discourteously to § 87(2)(b)

The following facts are undisputed. After PO Mattern and PO Romero refused to help the unidentified man regarding the hit-and-run, they argued with him as he yelled and cursed at them. This caused a crowd to form, including § 87(2)(b), § 87(2)(b), and § 87(2)(b) as PO Martinez and PO Medina assisted. PO Martinez, PO Mattern, PO Medina, and PO Romero repeatedly ordered the civilians to leave the area, to no avail as they did not comply.

§ 87(2)(b) (**Board Review 30**) testified that PO Martinez used unspecified profanity with § 87(2)(b) and that PO Martinez and PO Mattern both told § 87(2)(b) to "Get the fuck out of here." PO Martinez told § 87(2)(b) to "Get the fuck out of here" as he began walking away from her.

§ 87(2)(b) (**Board Review 31**) testified PO Martinez repeatedly saying, "Fuck you," to him further escalated the situation. § 87(2)(b) walked away from the officers as PO Martinez continued to swear at him. § 87(2)(b) stopped and used unspecified profanity with PO Martinez.

Although § 87(2)(b) accompanied § 87(2)(b) to the CCRB to file this complaint the day after the incident, he refused to provide a statement and subsequently became uncooperative with the investigation. As such, the investigation did not obtain any statements from § 87(2)(b). The investigation was unable to identify or obtain statements from any other civilian witnesses.

PO Martinez (**Board Review 32**) and PO Mattern (**Board Review 21**) both testified that they did not remember whether either of them said the word "fuck" or "Get the fuck out of here" while speaking with the civilians or ordering them to disperse.

NYPD Patrol Guide Procedures 203-09 and 203-10 require that uniformed members of the service be courteous, professional, and respectful with the public (**Board Review 33**). Yet, the NYPD's disciplinary decisions "have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct." NYPD Disciplinary Case No. 76927/04 (2004) (**Board Review 34**).

It is undisputed that, once PO Mattern and PO Romero began arguing with the unidentified man, the situation became more hostile and a small crowd gathered on the sidewalk. Nearby civilians refused to comply with orders to disperse. § 87(2)(g)

Allegation D—Abuse of Authority: Police Officer Jeanene Martinez threatened § 87(2)(b)
with the use of force.

Allegation E—Abuse of Authority: Police Officer Jeanene Martinez threatened to arrest § 87(2)(b)

§ 87(2)(b) The following facts are undisputed. As discussed previously, the argument on the sidewalk between the unidentified man and PO Mattern and PO Romero escalated as it went on. Although the officers ordered the civilians to leave, and § 87(2)(b) did begin to do so, § 87(2)(b) remained part of the crowd. § 87(2)(b) was not arrested. Prior to this incident, § 87(2)(b) and § 87(2)(b) had never met each other and had no pre-existing relationship. As such, the investigation considers them each to be independent eyewitnesses to each other's allegations.

§ 87(2)(b) (Board Review 30) alleged that PO Martinez told him to "Get the fuck out of here before we kill you, before you get locked up."

§ 87(2)(b) (Board Review 31), PO Martinez (Board Review 32), and PO Mattern (Board Review 21) all denied hearing any officer say they would "kill" someone.

In order to make a lawful arrest, an NYPD officer must possess "reasonable cause to believe [that an] offense [was] committed in [her] presence." NYPD Patrol Guide Procedure 208-01 (Board Review 35). In New York State, a person commits the offense of disorderly conduct when, "with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, ... [h]e congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse." NY Penal Law § 240.20 (Board Review 36).

Given that § 87(2)(b) is an independent eyewitness with respect to allegations against § 87(2)(b) and that § 87(2)(b) corroborated PO Martinez and PO Mattern's denials that an officer threatened to "kill" § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation H—Force: Police Officer Anthony Medina used physical force against § 87(2)(b)

It is undisputed that, as the argument on the sidewalk wore on, the officers repeatedly ordered the civilians to disperse but they did not comply. It is further undisputed that § 87(2)(b) was ultimately arrested for disorderly conduct, obstructing governmental administration in the second degree, resisting arrest, assault on a police officer, and criminal mischief (Board Review 01). He later pleaded guilty to just one count of resisting arrest.

§ 87(2)(b) cell-phone video (Board Review 02) captures most of the beginning of the incident, and the moments leading up to PO Medina initiating § 87(2)(b) arrest. Between the 00:12 and 00:22 marks, § 87(2)(b) wearing all blue, walks away from the group of officers towards the intersection. He briefly stops, turns to the officers, appears to say something, and gesticulates with one hand while he holds an Old Navy shopping bag in the other. PO Martinez appears to saying something to him and gestures as if ordering him to leave. Between the 00:22 and 00:37 marks, § 87(2)(b) takes a few steps further away from the officers and towards the intersection as PO Medina approaches him and appears to say something. PO Medina then rushes up to § 87(2)(b) chest to chest, and continues talking. PO Medina reaches for § 87(2)(b) left arm with his right hand, but misses as § 87(2)(b) continues walking away from the officers. PO Medina pursues § 87(2)(b) further and wraps his arms around his torso in a bear-hug; § 87(2)(b) immediately does the same in response. They fall to the ground together and a struggle ensues.

NYPD officers are authorized to “[a]pply no more than the reasonable force necessary to gain control” of an “uncooperative subject,” but, “any application of force must be reasonable under the circumstances.” NYPD Patrol Guide Procedures 221-02, 221-01 (**Board Review 37**).

As § 87(2)(b) cell-phone video shows, § 87(2)(b) was noncompliant with commands to disperse and with PO Medina’s initial attempt to place him under arrest. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation I—Force: Police Officer Jeanene Martinez struck § 87(2)(b) with a Taser.
Allegation K—Force: Police Officer Jeanene Martinez attempted to discharge a Taser at

§ 87(2)(b)

The following facts are undisputed. PO Martinez drew her Taser from its holster as PO Medina first reached for § 87(2)(b) arm. Immediately after § 87(2)(b) fell to the ground on top of PO Medina, and within five seconds of PO Medina attempting to apprehend § 87(2)(b) PO Martinez struck § 87(2)(b) on the head with her Taser three times, dislodging the cartridge. PO Martinez then applied the drive-stun end of her Taser to § 87(2)(b) neck and pulled the trigger. The Taser did not discharge, however, because she forgot to take the safety off. In between PO Medina apprehending § 87(2)(b) and PO Martinez using her Taser as described above, § 87(2)(b) did not immediately provide his arms as PO Romero grabbed and pulled at his left arm. He did not strike or otherwise attack the officers, and was unarmed. The first 37 seconds of § 87(2)(b) cell-phone video (**Board Review 02**) depicts this portion of the incident and the preceding moments. PO Martinez’s use of her Taser is also depicted in a smaller subclip, available at **Board Review 38**.

PO Martinez (**Board Review 32**) testified that she lacked an independent memory of doing anything with her Taser besides removing it from its holster before the struggle with § 87(2)(b) began, and having to pick it up off of the ground sometime later. PO Martinez could not account for how her Taser ended up on the ground. Reviewing the above-mentioned portion of § 87(2)(b) cell-phone video did not refresh PO Martinez’s memory as to her intentions and reasons in the moment. PO Martinez stated that she first raised her left hand to her Taser, which she held in her right hand, in an attempt to discharge it at § 87(2)(b) in prong-deployment mode before the struggle to handcuff § 87(2)(b) went to the ground—even though she believed that doing so was tactically inappropriate, given that the placement of other officers nearby may have rendered prong-deployment ineffective. PO Martinez assessed her Taser-related actions in the video to mean that she attempted to discharge her Taser at § 87(2)(b) first in prong-deployment mode and then in drive-stun mode, but that she forgot to take the safety off and properly arm the Taser first.

PO Martinez stated that the only reasons for which she used any force was that § 87(2)(b) “assaulted” PO Medina by grabbing him in the first place; that the officers needed to get § 87(2)(b) off of PO Medina; and that § 87(2)(b) was noncompliant with handcuffing.

NYPD officers may “[a]pply no more than the reasonable force necessary to gain control” of an “uncooperative subject,” but “any application of force must be reasonable under the circumstances.” NYPD Patrol Guide Procedures 221-02, 221-01 (**Board Review 37**). A Taser “should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present.” NYPD Patrol Guide Procedure 221-08 (**Board Review 39**). “Drive-stun” mode “should not be the primary method of use unless exceptional circumstances exist.” *Id.* Members of service must “[a]void discharging [the Taser] at an individual’s head, neck, and chest, if possible.” *Id.*

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g) PO Martinez's Taser strikes to § 87(2)(b) head came almost immediately after § 87(2)(b) and PO Medina fell to the ground. Although § 87(2)(b) did not immediately provide his hands, and was moving his arms around, he was unarmed and did not punch, choke, or otherwise attack or cause physical harm to PO Medina on the ground, and was surrounded by four officers attempting to apprehend him on suspicion of committing the non-violent, non-criminal violation of disorderly conduct. Moreover, PO Martinez repeatedly struck § 87(2)(b) with the Taser so soon after he fell to the ground that he had, at most, mere seconds with which to comply with commands to give his hands.

§ 87(2)(g)

Allegation J—Force: Police Officer Jeanene Martinez struck § 87(2)(b) with handcuffs.

§ 87(2)(b) (Board Review 30) testified that, immediately after PO Martinez struck § 87(2)(b) on his head with a Taser, she struck him on the head with handcuffs.

However, as § 87(2)(b) cell-phone video (Board Review 02) and the subclip created from it that depicts this portion of the incident (Board Review 38) show, PO Martinez did not strike § 87(2)(b) with handcuffs. Instead, her handcuffs became dislodged from her belt when § 87(2)(b) swiped the Taser out of her hands after she tried to drive-stun him in the neck. This discrepancy is most likely explained by the difference in § 87(2)(b) vantage point compared to the position from which § 87(2)(b) was video-recording on the other side of the street.

§ 87(2)(g)

Allegation L—Force: Police Officer Dylan Mattern used physical force against § 87(2)(b)

Allegation M—Force: Police Officer Jimmy Romero used physical force against § 87(2)(b)

The following facts are undisputed. After § 87(2)(b) fell to the ground on top of PO Medina, a struggle ensued. PO Mattern and PO Romero picked § 87(2)(b) up and took him to the ground backwards. PO Mattern, PO Romero, PO Medina, and PO Martinez struggled to handcuff § 87(2)(b) mostly due to § 87(2)(b) resistance of moving his arms around and refusing to comply with orders to give his hands. § 87(2)(b) stood up despite the officers' attempts to keep him down on the ground, so PO Mattern took him to the ground a second time. It took PO Mattern, PO Romero, PO Medina, and PO Martinez at least a few minutes to handcuff § 87(2)(b).

As demonstrated in § 87(2)(b) cell-phone video (Board Review 02) and § 87(2)(b) cell-phone video (Board Review 08), once the struggle began, the nearby crowd contained several civilians, some of whom were within arm's reach of the officers on the ground, and some of whom shouted obscenities at the officer and otherwise verbally antagonized them.

NYPD officers are authorized to "[a]pply no more than the reasonable force necessary to gain control" of an "uncooperative subject," but "any application of force must be reasonable under the circumstances." NYPD Patrol Guide Procedures 221-02, 221-01 (Board Review 37).

§ 87(2)(g)

Although he was unarmed and did not strike the officers, he repeatedly moved his arms, refused to give his hands, and at one point stood up after a forcible takedown. The nearby crowd of hostile, verbal agitators § 87(2)(g)

Allegation N—Force: Police Officer Jimmy Romero restricted § 87(2)(b) breathing.

The following facts are undisputed. Within 10 seconds of § 87(2)(b) and PO Medina falling to the ground with § 87(2)(b) on top of him, PO Mattern and PO Romero picked § 87(2)(b) up and took him down to the ground, backwards, in the street. Within three seconds of § 87(2)(b) landing on the ground, PO Romero grabbed one of § 87(2)(b) arms and knelt on § 87(2)(b) chest with his left leg, while his right leg braced against the ground on the street.

§ 87(2)(b) cell-phone video (**Board Review 02**) depicts the following. Between the 00:37 and 00:47 marks, PO Mattern and PO Romero take § 87(2)(b) to the ground as described above. PO Mattern lands on his hands and knees to § 87(2)(b) left; PO Romero stands to his right; and PO Medina stands between them closer to § 87(2)(b) head. Between the 00:47 and 01:05 marks, PO Romero, depicted in the upper right side of the video frame, kneels on § 87(2)(b) chest with his left leg, while his right leg remains planted on the ground, flexing towards § 87(2)(b). PO Romero kneels on § 87(2)(b) chest for 3 to 4 seconds before dropping to his knees and straddling § 87(2)(b) torso. A still-frame image (**Board Review 40**) from § 87(2)(b) cell-phone video also depicts PO Romero kneeling on § 87(2)(b) chest.

§ 87(2)(b) (**Board Review 31**) testified that, throughout the struggle to handcuff him, officers continued to press down on his chest, making it difficult for him to breathe.

PO Romero, who weighs approximately 200 pounds, testified that during the above-mentioned portion of the cell-phone video, he was trying to keep § 87(2)(b) down on the ground and gain control of him (**Board Review 23**).

NYPD officers may “[a]pply no more than the reasonable force necessary to gain control” of an “uncooperative subject,” but “any application of force must be reasonable under the circumstances.” NYPD Patrol Guide Procedures 221-02, 221-01 (**Board Review 37**). However, members of service must “[a]void actions which may result in chest compression, such as sitting, kneeling, or standing on a subject’s chest or back, thereby reducing the subject’s ability to breathe.” Patrol Guide Procedure 221-02 (**Board Review 37**).

The investigation determined that PO Romero restricted § 87(2)(b) breathing based on the following factors: § 87(2)(b) cell-phone video (**Board Review 02**) and the still-frame image (**Board Review 40**) depicts PO Romero leaning his body weight onto § 87(2)(b) chest as § 87(2)(b) lays face-up in the street; PO Romero weighed approximately 200 pounds and leaned the majority of his body weight onto § 87(2)(b) chest; and § 87(2)(b) testified that he had difficulty breathing specifically due to officers pushing down on his chest. § 87(2)(b) later stood up before the officers handcuffed him, but he did not do this while PO Romero was kneeling on him, and § 87(2)(b) cell-phone video does not show § 87(2)(b) able to move from underneath PO Romero while PO Romero knelt on his chest. § 87(2)(g)

§ 87(2)(g)
PO Romero did not avoid kneeling on § 87(2)(b) chest. Mere seconds after he and PO Mattern took § 87(2)(b) to the ground, PO Romero knelt directly on § 87(2)(b) chest in what he acknowledged was a deliberate attempt to hold him down.

Allegation O—Force: Police Officer Dylan Mattern used a chokehold against § 87(2)(b)
Allegation P—Force: Police Officer Dylan Mattern restricted § 87(2)(b) breathing.

§ 87(2)(b) cell-phone video (Board Review 08) depicts the following between the 00:06 and 00:15 marks. § 87(2)(b) lays face-up in the street surrounded by officers. PO Mattern is on his hands and knees to § 87(2)(b) right, with his right arm across § 87(2)(b) chest. § 87(2)(b) pans the camera around as he walks east and away from the intersection. PO Mattern uses his right hand to push § 87(2)(b) hand away from him. While leaning forward, PO Mattern grips the ball of § 87(2)(b) left shoulder with his left hand. The outer edge of PO Mattern's lower forearm appears to touch § 87(2)(b) throat for approximately two to three seconds as he grimaces. A frame-by-frame (Board Review 41, 42, 43) look at this video clarifies that the outer edge of PO Mattern's lower forearm does appear to touch § 87(2)(b) throat.

§ 87(2)(b) (Board Review 31) did not remember whether PO Mattern touched his neck. PO Mattern (Board Review 21), who stands 5'8" tall and weighs approximately 215 pounds with a muscular build, denied touching § 87(2)(b) neck. Upon reviewing the above-mentioned video, he stated that his forearm was against § 87(2)(b) collarbone, not his neck.

NYPD Patrol Guide Procedure 221-01 (Board Review 37) categorically prohibits the use of a chokehold, which "include[s], but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air."

§ 87(2)(g)
First, § 87(2)(b) cell-phone video and the still-frame images from it (Board Review 41, 42, 43) appear to depict PO Mattern's lower forearm touching § 87(2)(b) throat. Second, the mechanics involved in PO Mattern's forward-leaning position make it most likely that PO Mattern's forearm was, in fact, not only touching but also pressing against § 87(2)(b) neck—not merely resting on the thin support of his collarbone. Given PO Mattern's size, the forward-leaning angle at which his body-positioning channeled his weight, and the position of § 87(2)(b) body, such physical contact is capable of preventing or inhibiting airflow, § 87(2)(g)

Allegation Q—Force: Police Officer Jimmy Romero used a chokehold against § 87(2)(b)

§ 87(2)(b) (Board Review 25) testified that, during a portion of the struggle to handcuff § 87(2)(b) in which the officers and § 87(2)(b) were standing up, an officer—who he stated was PO Mattern, but who the investigation identified as PO Romero based on the video as described below—wrapped his right arm around § 87(2)(b) neck from behind with his right wrist near § 87(2)(b) left ear, and his left arm wrapped underneath § 87(2)(b) left armpit pointed upward, for multiple seconds. In that moment, § 87(2)(b) vocalized that he witnessed an "illegal" chokehold.

The investigation created a side-by-side, temporally synchronized compilation of § 87(2)(b) cell-phone video (**Board Review 08**) on the left and § 87(2)(b) cell-phone video (**Board Review 02**) on the right, with the audio from § 87(2)(b) video. This side-by-side video, which begins at the beginning of § 87(2)(b) cell-phone video and covers the temporally overlapping portion of both videos, is available at **Board Review 44**.

The side-by-side cell-phone videos (**Board Review 44**) depict the following between the 00:20 and 00:43 marks. § 87(2)(b) stands up. PO Mattern wraps his arms around § 87(2)(b) abdomen from behind as PO Romero's left arm wraps over his left shoulder and down towards his back. PO Romero, PO Mattern, and § 87(2)(b) spin around in the street while standing. § 87(2)(b) right arm is wedged between PO Mattern's arm and PO Romero's torso. PO Romero readjusts his grip on § 87(2)(b) but the camera pans away before his grip rearrangement is visible. PO Romero's hands are last seen grabbing § 87(2)(b) sweatshirt by the right shoulder with his right hand, and reaching around § 87(2)(b) back with his left hand. A few seconds after PO Romero rearranges his hands, § 87(2)(b) exclaims, "Yo, officer, what are you doing? That's an illegal choke on this man. What is he doing?" Neither video in the side-by-side version captures where PO Romero's hands or arms are when § 87(2)(b) mentions an "illegal choke." PO Mattern takes § 87(2)(b) to the ground from behind.

Surveillance video from Camera #8 at 650 Gates Avenue (**Board Review 13**) depicts the officers apprehending § 87(2)(b) beginning at the 11:17 mark. PO Mattern's second takedown of § 87(2)(b) begins at approximately the 12:13 mark. In the time before that—i.e. the time period in which PO Romero's alleged chokehold would have occurred—the surveillance video does not provide sufficient clarity to discern which individuals are who, and where their limbs are placed. As such, the surveillance video neither depicts, nor disproves, the chokehold § 87(2)(b) alleged.

§ 87(2)(b) (**Board Review 31**) testified that he did not remember whether any officer put an arm around his neck during the struggle to handcuff him.

PO Romero (**Board Review 23**) denied wrapping his arm around § 87(2)(b) neck, and denied that any officer ever made contact with § 87(2)(b) neck.

NYPD Patrol Guide Procedure 221-01 (**Board Review 37**) categorically prohibits the use of a chokehold, the definition of which "shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air."

§ 87(2)(g)
On the one hand, § 87(2)(b) alleged that PO Romero wrapped his arm around § 87(2)(b) neck in a maneuver that meets Patrol Guide Procedure 221-01's definition of a chokehold. § 87(2)(b) is an independent eyewitness with no pre-existing connection with § 87(2)(b). His view of this portion of the incident was largely unobstructed in broad daylight. § 87(2)(b) testified that he made a contemporaneous exclamation that he witnessed an "illegal choke" as the chokehold happened, and his video footage confirms that he made such a statement at a point in time when such a chokehold is possible. However, the specific chokehold choreography § 87(2)(b) alleged is neither depicted in, nor disproven by, the cell-phone video or surveillance video. Even compiling both § 87(2)(b) and § 87(2)(b) cell-phone videos side-by-side (**Board Review 44**) does not clarify whether PO Romero used the two-arm chokehold maneuver as alleged.

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation R—Force: Police Officer Dylan Mattern used physical force against § 87(2)(b)

§ 87(2)(b) cell-phone video (**Board Review 02**), between the 01:23 and 01:31 marks, depicts PO Mattern struggling with § 87(2)(b) on the ground from behind. PO Mattern's mouth

appears to open and close near § 87(2)(b) back. This moment is also depicted in a few-second long subclip at **Board Review 45** and a still-frame image at **Board Review 46**.

§ 87(2)(b) (**Board Review 30**) testified that, once he reviewed the above-mentioned video after the incident, he noticed for the first time that PO Mattern apparently bit § 87(2)(b) back.

§ 87(2)(b) (**Board Review 31**) denied feeling an officer bite him during the incident, and did not allege having bite marks or other injuries consistent with having been bitten.

PO Mattern (**Board Review 21**) denied biting § 87(2)(b) and audibly laughed at the notion that the above-mentioned video depicts him doing so.

§ 87(2)(b) acknowledged that he only noticed the alleged bite upon reviewing the cell-phone video after the incident concluded. Thus § 87(2)(b) allegation that PO Mattern bit § 87(2)(b) is based on his own post hoc interpretation of the video evidence—not contemporaneous, firsthand observations. § 87(2)(b) did not feel he was bitten. PO Mattern denied biting him. As such, the investigation's factual determination turns on the video.

§ 87(2)(g)

Allegation S—Discourtesy: Police Officer Anthony Medina spoke discourteously to § 87(2)(b)

It is undisputed that, while PO Medina, PO Martinez, PO Romero, and PO Mattern handcuffed § 87(2)(b) several civilians gathered nearby and shouted profanities at the officers.

In § 87(2)(b) cell-phone video (**Board Review 08**), between the 00:54 and 00:59 marks, PO Medina tells § 87(2)(b) to “Get the fuck back” as the officers attempt to handcuff § 87(2)(b).

NYPD Patrol Guide Procedures 203-09 and 203-10 require that uniformed members of the service be courteous, professional, and respectful with the public (**Board Review 33**). Yet, the NYPD's disciplinary decisions “have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct.” NYPD Disciplinary Case No. 76927/04 (2004) (**Board Review 34**).

When PO Medina ordered § 87(2)(b) to “Get the fuck back,” he did so while struggling to handcuff a noncompliant arrestee with a crowd of several hostile agitators nearby—including § 87(2)(b) who was within arm's reach. § 87(2)(g)

Allegation T—Force: Police Officer Jeanene Martinez restricted § 87(2)(b) breathing.

The following facts are undisputed. As PO Martinez, PO Medina, PO Romero, and PO Mattern apprehended § 87(2)(b) he continually moved his arms and legs around and refused to be handcuffed or comply with orders to put his hands behind his back. After a few minutes of grappling with § 87(2)(b) including two forcible takedowns, PO Martinez, PO Medina, PO Romero, and PO Mattern collectively put § 87(2)(b) into handcuffs as he lay face-down in the street. While handcuffing § 87(2)(b) PO Martinez knelt on § 87(2)(b) upper back and shoulder area to gain leverage over him and keep him on the ground.

§ 87(2)(b) cell-phone video (**Board Review 08**) depicts § 87(2)(b) on the ground gasping that he “can't breathe” several times between the 00:42 and 01:23 marks while he lies face-down in the street and the officers attempt to handcuff him.

§ 87(2)(b) (**Board Review 31**) testified that, at multiple points while the officers attempted to handcuff him, their pressure on his head, neck, and back restricted his breathing.

PO Martinez acknowledged—both in her memo book entries (**Board Review 47**) and her testimony (**Board Review 32**)—that she knelt on § 87(2)(b) back in order to handcuff him.

§ 87(2)(g) [REDACTED]. On the one hand, § 87(2)(b) testified that PO Martinez kneeling on his back, specifically, made it difficult to breathe. § 87(2)(b) cell-phone video depicts § 87(2)(b) repeatedly gasping, “can’t breathe,” during this time period. § 87(2)(b) prone positioning likely compressed his chest against the ground. On the other hand, PO Martinez is a slender-built female and was not kneeling directly on § 87(2)(b) chest or lungs, but rather on his upper back area closer to the shoulder. § 87(2)(b) had been actively resisting arrest for a few minutes at this point, and was likely already out of breath from the previous grappling, including the two forcible takedowns, as he repeatedly moved his arms and legs around.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Allegation U—Discourtesy: Police Officer Jeanene Martinez spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified (**Board Review 31**) that PO Martinez repeatedly said, “Fuck you,” to him while she and PO Medina drove him to their stationhouse. PO Martinez (**Board Review 32**) did not remember whether she did so. PO Medina denied that she did so (**Board Review 48**).

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Allegation V—Discourtesy: Police Officer Michael Swift spoke discourteously to § 87(2)(b)

It is undisputed that, after § 87(2)(b) was arrested, § 87(2)(b) PO Swift, and Sgt. Morning-Kelleher remained on scene for at least some time.

§ 87(2)(b) testified (**Board Review 30**) that he asked PO Swift what would happen to § 87(2)(b) PO Swift told § 87(2)(b) that § 87(2)(b) “Can’t do shit” about § 87(2)(b) being arrested and ordered him to “Get the fuck out of here. I run Bed-Stuy.”

The investigation was unable to obtain a statement from § 87(2)(b) or to identify or obtain statements from any other civilians on scene besides § 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b) both recorded cell-phone videos (**Board Review 04, 06, 10**) of them yelling at officers and civilians who remained on-scene after § 87(2)(b) arrest. The investigation also obtained several angles of surveillance footage from a nearby apartment building (**Board Review 12–15**). Despite the several different angles of video evidence, none of the videos can depict or disprove an interaction taking place between § 87(2)(b) and PO Swift.

PO Swift (**Board Review 49**) denied telling § 87(2)(b) that § 87(2)(b) “Can’t do shit” about § 87(2)(b) being arrested. PO Swift denied telling § 87(2)(b) to “Get the fuck out of here,” or that he “run[s] Bed-Stuy.” PO Swift did not remember even speaking with any civilians on scene. Sgt. Morning-Kelleher (**Board Review 50**) denied hearing PO Swift swear at § 87(2)(b)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g), § 87(4-b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g), § 87(4-b)

[Redacted text block]

§ 87(2)(g), § 87(4-b)

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§ 87(2)(g), § 87(4-b)

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§ 87(2)(g), § 87(4-b)

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§ 87(2)(g), § 87(4-b)

[Redacted text block]

§ 87(2)(g), § 87(4-b)

[Redacted text block]

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first and only CCRB complaint in which § 87(2)(b) (Board Review 62) or § 87(2)(b) (Board Review 63) has been a party.
- PO Mattern has been a member of service for two years and a subject in one other CCRB complaint and three other allegations, one of which was substantiated:
 - CCRB case #201900192 involved a substantiated failure to provide RTKA allegation, an unsubstantiated refusal to provide shield number allegation, § 87(2)(g), § 87(4-b). The Board recommended Command-Level Instructions. The NYPD does not appear to have imposed any discipline to date.
 - § 87(2)(g)
- PO Romero has been a member of service for three years and a subject in two other CCRB complaints and three other allegations, one of which was substantiated:
 - CCRB case #201900826 involved an unfounded search of recording device and a substantiated entry of premises. The Board recommended Command Discipline B. The NYPD does not appear to have imposed any discipline to date.

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○ § 87(2)(g)

- PO Martinez has been a member of service for two years and this is the first and only CCRB complaint in which she has been a subject.
- PO Medina has been a member of service for six years and this is the first and only CCRB complaint in which he has been a subject.
- PO Swift has been a member of service for 17 years and a subject in eight other CCRB complaints and 11 other allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was ineligible for mediation.
- As of September 23, 2019, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards to this complaint (**Board Review 64**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: #06

| | | | |
|---------------|--------------------|--|---------------|
| Investigator: | _____ Signature | <u>Investigator Conor O'Shea</u> Print Title & Name | _____ Date |
| Squad Leader: | _____ Signature | <u>Inv. Manager Jessica Peña</u> Print Title & Name | _____ Date |
| Reviewer: | _____ Signature | _____ Print Title & Name | _____ Date |

CCRB Case # 201808743